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X IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 2nd day of June, 1998

Before:

THE HON'BLE MR. JUSTICE R.V. RAVEENDRAN

Writ Petition Nos. 2927 and 2928/1989, 5024 to 5029/1989

and 7701 to 7738 of 1989

In W.P.Nos. 2927 and 2928/1989

1. Shivarudrappa,
s/o Y. Rudrappa,
Agriculturist;
2. Maruti,
s/o Muniyappa,
Agriculturist;

Both are residents of Divatige
Ramanahalli, Kengeri Hobli,
Bangalore South Taluk,
Bangalore

Sri M.L. Narayana Rao and .. Petitioners
(By Sri Mahantesh S. Hosmath, Advocate)

-Vs-

1. The State of Karnataka
by its Secretary by Revenue
Department, Vidhana Soudha,
Bangalore;
 2. The Block Development Officer,
Bangalore South Taluk;
 3. The Municipal Corporation by its
Commissioner, Bangalore .. Respondents
- (By Sri A. Nagarajappa, AGA, for R1 & R2;
Sri K.N. Puttegowda, Adv., for R3)

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Writ Petitions are filed praying to direct the
Bangalore Municipal Corporation, authorities to give
the reasons and intimation in writing to the petitioners,
etc.,

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In W.P.Nos. 5024 to 5029/1989

1. Mahadev,
s/o late Hanumappa,
Agriculturist;
 2. M. Marimai,
s/o Mayanna,
Agriculturist;
 3. Laxmamma,
w/o Siddagangaiah,
Household;
 4. Timmakka,
w/o Huchchayya,
Agriculturist;
 5. Puttaswamigouda,
s/o Venkategouda,
Agriculturist;
 6. Doddalingayya,
s/o Karigouda,
Agriculturist
- ..Petitioners

All are residents of Divatage-Ramanahalli,
Kengeri Hobli, Pattanagere Village
Panchayath, Bangalore South Taluk.

Sri C. D. Narayana Rao and
(By Sri Mahantesh S. Hosmath, Advocate)

-Vs-

1. The State of Karnataka,
by its Secretary by Revenue
Department, Vidhana Soudha,
Bangalore-1;
2. The Block Development Officer,
Bangalore South Taluk,
Bangalore;
3. The Municipal Corporation,
by its Commissioner,
Bangalore;

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4. The Tahsildar,
Bangalore South Taluk,
Bangalore ..Respondents

(By Sri B.V.Muralidhar, Adv., for R3;
Sri A.Nagarajappa, AGA, for R1, 2, & 4)

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Writ Petitions are filed praying to issue a writ of quo-warranto under what authority they have to interfere in the said sites formed in S.No.43 of Devatigiramanahalli Village, Kengeri Hobli, Bangalore South Taluk jurisdiction.

In W.P. Nos. 7701 to 7738/1989

1. Thimmanna,
s/o Hanumaiah,
Agriculturist;
2. Lakshamma,
w/o Nanjundaiah,
House-wife;
3. Yeshodamma,
w/o Ramalingegowda,
House-wife;
4. Ganga Mayamma,
w/o Hanumaiah,
House-wife;
5. A. Krishna,
s/o Ankegowda,
Agriculturist;
6. Nanjamma,
w/o Lakshminarayana,
House-wife;
7. Shivamma,
d/o Byrappa,
House-wife;

8. Bhadramma
w/o Channarayappa,
House-wife;
9. Shivanna,
s/o Byrappa,
Agriculturist;
10. R. Rajanna,
s/o Ramaiah,
Agriculturist;
11. Venkataramaiah,
s/o Ramaiah,
Agriculturist;
12. Channabasamma,
w/o Venkatesh,
House-wife;
13. D. Narasimhaiah,
s/o Dasappa,
Agriculturist;
14. Veena,
w/o Sathish,
House-wife;
15. Prabha,
w/o Raghavendra Rao,
House-wife;
16. Muniyamma,
w/o Kariyappa,
House-wife;
17. Nagaraju,
s/o Puttaiah,
Agriculturist;
18. Hanumanthakumar,
s/o Muniyamma,
Agriculturist;
19. Narayanarao,
s/o Srinivasarao,
Agriculturist;

20. Krishnaveni,
w/o Gangaiah,
House-wife;
21. Lakshmamma,
w/o Krishnamurthy,
House-wife;
22. Muniyamma,
w/o Chikkanna,
House-wife;
23. Sarojamma,
w/o Seetharam,
House-wife;
24. Ahamadulla,
s/o Peer Sab,
Agriculturist;
25. Govindaraj.M,
s/o Muniswamappa,
Agriculturist;
26. P.A. Prahalada,
s/o late Appayya,
Agriculturist;
27. Siddappa,
s/o Channaveerappa,
Agriculturist;
28. Sharadamma,
w/o S.T. Venkataswamy,
House-wife;
29. Huchamma,
w/o Puttaiah,
House-wife;
30. K.C. Narayanappa,
s/o Chikka Channappa,
Agriculturist;
31. M. Murarappa,
s/o Muniswamappa,
Agriculturist;

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- 32. Narayanappa,
s/o Mudalappa,
Agriculturist;
- 33. R. Venkatesh,
s/o Y. Ramaiah,
Agriculturist;
- 34. Thirtha Rao,
s/o Venkataraao,
Agriculturist;
- 35. Jayamma,
d/o Lingamma,
House-wife;
- 36. S.N. Dhananjaya,
s/o Nagegowda,
Agriculturist;
- 37. Lakshmidevamma,
w/o Venkatesh,
House-wife;
- 38. Gowramma,
w/o R.K. Puttaswamy,
House-wife; .. Petitioners

All are residents of Divatage-Ramanahalli
Kengeri Hobli, Puttanagere Village Panchayath
Bangalore South Taluk

Gri. U.L. Narayana Rao and
(By Sri Mahantesh S. Hosmath, Advocate)

-Vs-

- 1. The State of Karnataka,
by its Secretary by Revenue
Department, Vidhana Soudha,
Bangalore-1;

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2. The State of Karnataka,
by its Secretary to Housing
and Urban Development Department,
Vidhana Soudha, Bangalore;

3. Deputy Commissioner,
Bangalore District,
Bangalore;

4. The City Municipal Corporation,
by its Commissioner,
Bangalore;

5. The Tahsildar,
Bangalore South Taluk,
Bangalore

..Respondents

(By Sri A. Nagarajappa, AGA, for R1, 2, 3 & 5;
Sri K.N.Puttegowda, Adv., for R4)

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Writ Petitions are filed praying to direct
Municipal Corporation to give reasons and intimate in
writing to the petitioners before their action of
interference in petitioners suit sites, etc.,

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All these writ petitions are coming on for hearing
this day, the Court made the following:-

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O R D E R

The petitioners claim that they belong to weaker sections of society and they are siteless and houseless persons and they were requesting for allotment of suitable sites. According to petitioners, Sy No 43 of Devatage-Ramanahalli in Kengeri hobli, Bangalore south taluk, is a government kharab land. As the said land was situated adjoining to Pattangere Gram Panchayat, the concurrence and opinion of the said gram panchayat was sought ^{by the Government for forming sites in the said land,} and the said panchayat resolved in its meeting held on 23-12-1978 that it has no objection for distribution of sites by the Block Development Authority to deserving persons. Accordingly, the State Government formed sites in the said land and distributed them to more than 100 persons by issuing hakkupatras on 10-4-1980. The petitioners in these petitions are ^{some of} the grantees of sites formed in the said land. The petitioners in WP No 2927-28 of 1989 claim to be the grantees of site Nos 101 and 70, each measuring 40'x20', vide hakkupatras [Annexure 'A' and 'B']. The petitioners in WP No 5024-29 of 1989 claim to be the grantees of site Nos 108, 12, 96, 84, 50 and 49

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each measuring 40'x20 under hakkupatras vide Annexure A, A1, A2, B, B1 & B2 and the petitioners in WP No 7701-38 of 1989 claim to be allottees of site Nos 20, 68, 79, 69, 19, 73, 32, 30, 26, 27, 28, 33, 39, 55, 56, 91, 64, 65, 86, 87, 88, 63, 99, 31, 85, 113A, 98, 25, 108A, 11, 94, 93, 14, 47, 89, 78 and 90, each measuring 40'x20', under hakkupatras produced as per Annexure A1 to A19 and B1 to B20. The petitioners claim that ever since the time of such allotment, they have been in possession thereof and many of them have already constructed houses and ~~residing~~ staying in them.

2. The petitioners claim that, when matters stood thus, the officials of the Bangalore City Corporation attempted to interfere with their possession, alleging that the land in question belongs to BCC. Aggrieved by the said action, the petitioners have filed these petitions, seeking a direction to the BCC not to interfere with their possession of the sites formed in Sy No 43 of Divataga-Ramanahalli, Pattanagere Village Panchayat, Kengeri Hobli, Bangalore south taluk. They have also sought a direction to BCC to assign

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the reasons and inform in writing the ground for interfering with their possession before attempting to interfere with their possession.

4. The State Government has filed common objections in all these cases. It admitted that the Sy No 43 is a government kharab land and it belongs to government; that the government formed sites in it and distributed more than 100 sites in the said land by issuing hakkupatras. The government has admitted that the hakkupatras issued by the Block Development Officer are valid and the BCC has no authority of jurisdiction to interfere with the distribution of free sites by the government to the beneficiaries. The government has also taken the stand that as per the records the said land was not handed over by the government to the BCC at any point of time and therefore the BCC cannot claim the said land as its land. In other words, the State Government supported the case of petitioners.

5. On the other hand, the BCC has contended that Divatage-Ramanahalli village was added within the boundaries of BCC with effect from 1-4-1964 by

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Gazette Notification [Karnataka Gazette Extraordinary] dated 30-3-1964. According to the BCC, Sy No 43 was also so included. According to corporation, all gomal lands, tanks, kharab lands coming within the BCC belong to it. The corporation contends that after 1-4-1964, the land in question being a kharab land, vested in it and therefore the government could not have formed any layout in the said land and the Block Development Officer could not have allotted plots to the petitioners and others. It is also stated that some of the petitioners had filed original suits in the civil court and obtained some orders/injunctions. The BCC contends that Pattanagere Gram Panchayat had no jurisdiction whatsoever in regard to the ^{said} land ^{and} ^{the} question ~~of~~ the said panchayat giving its consent or no objection does not arise. It is also contended that as the grants made by the government ~~were~~ invalid, the petitioners, who claim to be the grantees, were not authorised to occupy the plots allotted to them and they were to be treated as encroachers on the corporation land and consequently the corporation was entitled to safeguard its possession, ^{by evicting the} ~~grantees from Government.~~

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6. It is not in dispute that if the said land continues to be a government land, the government could form sites and allot them to the needy applicants. On the other hand, if the land had vested in the BCC, when the said village was included within the jurisdiction of BCC, the government could not have formed sites or allotted them to any one. While the corporation contends that the land in question had vested in it and therefore, it could deal with the State Government contends that the said land was never delivered to the corporation and reserved by the government and therefore it could deal with it by forming a layout. Thus, there is a clear and bona fide dispute in regard to the title and possession of the said land between corporation on the one hand and the State government and the grantees, viz., the petitioners, on the other hand. This court in writ proceedings, will not decide the disputed questions of title and possession. The limited question that can be gone into in these proceedings is whether the Corporation acted in any arbitrary and high-handed manner. The statement of objections filed by the corporation discloses that it has a serious claim over the said land. Hence,

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it cannot be said that its action to protect the possession is unreasonable or unwarranted, if it is the owner of the land. In the circumstances, two alternatives are available. One is to direct the petitioners and other allottees to approach the civil court. The other is to refer the matter to the decision of the Divisional Commissioner under Section 178A of the Karnataka Municipal Corporations Act, 1976 (which has been inserted with effect from 3-5-1995 by the Amended Act 14 of 1995). The government and its grantees claim that the said property as theirs; on the other hand, BCC claims that the said land as its land.

7. In the circumstances, these petitions are disposed of on the following manner:

- a) The entire dispute in regard to the ownership of Sy No 43 of Divataghe-Ramanahalli Kengeri Hobli, Bangalore South taluk, is referred to the Divisional Commissioner, Bangalore Division, Bangalore for decision in regard to the rival claims;

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b) The Divisional Commissioner shall hear the State government, Bangalore City Corporation, Pattangere City Municipal Council (which is stated to be the successor of Pattangere Village Panchayat) and the petitioners in these petitions, before deciding the matter. If any other persons, claims to be aggrieved by the action of the Bangalore City Corporation or claims to have any interest in the land in question or part thereof^{and} if they want to be heard, may also be heard.

c) To avoid any ~~delay~~ in service, the State Government, the Corporation and the petitioners shall appear before the Divisional Commissioner, without any further notice on 8-7-1998. The Divisional Commissioner may, however, issue notices to Pattangere City Municipal Council.

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- d) After considering their objections and giving them an opportunity of hearing, he shall decide the claim of the parties and pass appropriate orders thereon in accordance with law, as expeditiously as possible.
- e) Till a decision is taken by the Divisional Commissioner the parties shall maintain the status quo in regard to possession.

Let a copy of this order by sent to the
Divisional Commissioner, Bangalore Division, for
necessary action

Sd/-
JUDGE

*pjk/ujk

